

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 17-19

AN ORDINANCE

amending Chapter 11 of the City Code relating to landscape management; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 11 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

DIVISION 4. LANDSCAPE MANAGEMENT-WEEDS

Sec. 11-251. Definitions ~~Weeds defined~~.

As used in this division, the following terms mean ~~term "weeds" means~~:

Agricultural crops. Food crops or forage for livestock (i.e., hay or alfalfa) cultivated on a lot greater than two and one-half (2½) acres in size located within the Columbia city limits.

Control. A method to minimize the growth and spread of a plant to eventually achieve eradication.

Community garden. A single piece of land gardened collectively by a group of people that utilize either individual or shared plots on private or public land while producing fruits, vegetables, and/or plants that are grown for aesthetic purposes including, but not limited to, native and ornamental plants.

Invasive plant. A vegetation species that grows aggressively in the State of Missouri and is designated as invasive by the Missouri Department of Conservation.

Landscape. An alteration of surrounding grounds using ornamental and/or native vegetation including, but not limited to, trees, shrubs, wildflowers and grasses.

Managed landscape. A planned and designed yard or landscape that controls, directs and maintains the growth of vegetation including, but not limited to, ornamental flower gardens and native landscapes.

Native landscape. A managed landscape that is designed to mimic the natural habitat types of Missouri by exclusively using native plants including, but not limited to, trees, shrubs, wildflowers and grasses which are indigenous to the geographic area of the garden.

Native plant. A vegetation species that is indigenous to a particular region, ecosystem, or habitat in Missouri as listed by the Missouri Department of Conservation including, but not limited to, certain wildflowers, shrubs, grasses and trees that are indigenous to the topographic area.

Noxious weed. A vegetation species that is listed as a Missouri State Noxious Weed by the Missouri Department of Agriculture.

Nuisance plant. A vegetation species known to cause death or severe allergic reactions among certain individuals including, but not limited to, poison hemlock (*Conium maculatum*), poison ivy (*Toxicodendron radicans*) and ragweeds (*Ambrosia* spp.).

Ornamental plants. Non-native vegetation planted for aesthetic reasons.

Turf grass. A type of ground cover comprised mainly of grasses including, but not limited to, bluegrass, fescue and ryegrass blends. Turf grass must be maintained at a height of no more than twelve (12) inches and managed by mowing and trimming to maintain a uniform height.

Turf weed. Broadleaf weeds and other annual and perennial grasses that invade or disrupt the uniformity of turf grass lawns.

Urban agricultural crops. Food crops cultivated on a lot less than two and one-half (2½) acres in size located within the Columbia city limits.

Vegetable garden. Food crops cultivated on residential or commercial property and/or is located in a neighborhood setting.

Vermin harborage. A combination of dense vegetation, human infrastructure and refuse in an area that causes or could cause an overpopulation of rats or mice.

- (1) All vegetation, other than commonly known and recognized trees, decorative shrubs and ornamental grasses, which has attained a height of twelve (12) inches or more and which meets any one (1) of the following tests:
 - a. Vegetation which may exhale unpleasant or noxious odors.

- b. ~~Vegetation which does or could conceal deposits of trash or other material or which does or could afford food or harborage for rats, mice or snakes.~~
 - c. ~~Vegetation which is commonly known and recognized as weeds and grasses.~~
 - d. ~~Vegetation which causes a safety hazard by obstructing the line of sight of a motor vehicle driver, bicyclist or pedestrian at a street intersection.~~
 - e. ~~Vegetation which could interfere with the passage of motor vehicles, bicycles or pedestrians on any public right-of-way.~~
- (2) ~~Poison ivy, poison oak and poison sumac, at any height or stage of maturity.~~

Sec. 11-252. Landscape management requirements ~~Weeds declared a nuisance.~~

~~Any growth of weeds on any lot or ground is hereby declared to be a nuisance.~~

(a) The following requirements related to landscape management on residential and/or commercial properties apply to lawns, yards, gardens, community gardens, urban agricultural crops, agricultural crops, vegetable gardens, native and ornamental landscapes and shall be met to prevent a property from becoming a public nuisance:

- (1) All turf grass and turf weeds must be mowed and trimmed to prevent these plants from attaining a height of more than twelve (12) inches.
- (2) All properties must be maintained to prevent or mitigate against vermin harborage.
- (3) All properties must be maintained to control nuisance plants or noxious weeds.
- (4) All properties must be maintained to prevent the growth of vegetation that causes a safety hazard by obstructing the line of sight of a motor vehicle driver, bicyclist or pedestrian at a street intersection.
- (5) All properties must be maintained to prevent the growth of vegetation which could interfere with the passage of a motor vehicle, bicycle or pedestrian on any public right-of-way.
- (6) All properties must be maintained to prevent or mitigate the growth of vegetation from exceeding property boundaries.

(b) Exceptions:

- (1) Managed native landscapes which may or may not have gone to seed or developed to maturity are permitted provided that the native landscape meets all requirements in section 11-252(a) of this Code, non-native invasive plants are controlled, and dead native vegetation is removed annually by March 21st.
- (2) All urban agricultural crops, agricultural crops, community gardens and vegetable gardens are permitted provided that they meet all requirements in section 11-252(a) of this Code and that all dead crops are removed after harvest.
- (3) Ornamental plant landscapes are permitted provided that they meet all requirements in section 11-252(a) of this Code and that all dead ornamental plants are removed annually by November 1st.

Sec. 11-253. ~~Weeds~~ Landscape management public nuisances prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of any growth of vegetation ~~weeds~~ in violation of this division.

Sec. 11-254. Defense.

(a) It is an affirmative defense that the defendant did not have the legal right to control the location where a violation of this division occurred.

~~(b) It is an affirmative defense that the growth of weeds was for agricultural purposes, provided that a fifteen-foot wide, weed-free buffer was maintained on the perimeter of the property wherever the property adjoins property used for residential or commercial purposes.~~

~~(e-b)~~ It is an affirmative defense that the growth of vegetation ~~weeds~~ was part of a federal, ~~or~~ state or city agricultural or conservation program.

Sec. 11-255. Continuing violation.

Each day that a violation of this division continues shall be deemed a separate offense.

Sec. 11-256. ~~Weed~~ Landscape management abatement.

(a) *Initiation of abatement procedure.* When the hearing officer has reason to believe that vegetation ~~has weeds~~ have been allowed to grow on any property in violation of this article, the hearing officer may initiate an abatement procedure by calling a hearing to determine whether a violation exists.

(b) *Notice of hearing.* The owner of the property on which the violation of this article is believed to exist shall be given notice of the hearing at least four (4) days before the hearing. The notice shall describe the location and nature of the alleged violation and state the time and place of the hearing. When there is more than one (1) owner of the property, notice need be given to only one (1) of the owners.

(c) *Service of notice.* The notice shall be served by at least one of the following methods:

- (1) Personal service on the owner or the owner's agent;
- (2) Service by mail addressed to the last known address of the owner or the owner's agent;
- (3) Posting the notice on the property where the violation is alleged to exist.

Notice shall be considered given on the date the notice is personally served, mailed or posted.

(d) *Hearing and order.* The hearing officer shall conduct an informal hearing at the time and place designated in the notice of hearing. If the hearing officer determines, after reviewing all evidence presented at the hearing, that vegetation has~~weeds have~~ been allowed to grow on the subject property in violation of this article, the hearing officer may declare there the weeds to be a nuisance and order the public nuisance them to be abated within five (5) business days.

(e) *Abatement by city.* If vegetation is~~weeds are~~ not cut down and removed as ordered by the hearing officer, the hearing officer may have the vegetation~~weeds~~ cut down and removed by city employees or by persons under contract with the city. No person shall enter private property containing an occupied single-family residential structure to abate a public-weed nuisance unless an owner or occupant of the property has consented to the entry or unless the municipal judge has issued a warrant for the entry.

(f) *Collection of abatement costs.* The director shall certify the cost of abatement to the city clerk. The cost shall include administrative costs as well as the actual cost of cutting and removing the vegetation~~weeds~~. The city clerk shall cause a special taxbill against the property to be prepared in the amount of the abatement cost. The taxbill from the date of its issuance shall be a lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in the taxbill or in the proceedings leading up to the issuance of the taxbill shall be a defense in an action to collect the taxbill. Taxbills issued under this section, if not paid when due, shall bear interest at the rate of eight (8) per cent per annum. The cost of abatement shall also constitute a personal obligation of the property owner.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2019.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor